

REMARKS

Claims 1-10 and 12-14 are pending. Claims claims 27-33 are added, claims 7, 8, and 12-14 are amended and claims 1-6 and 10 are canceled herein, without prejudice. Claims 11 and 15-26 have been withdrawn. Applicants submit that the amendments herein introduce no new matter, support therefore being found throughout the application as originally filed

1. Priority Document

Applicants provide herewith a verified English translation of the priority document (JP2002-235275, filed on August 12, 2002). As such, Wang et al. Org. Lett. ("Wang"), U.S. Patent No. 7,223,788 to Schwink et al. ("Schwink"), and U.S. Publication No. 2006/0287327 to Labrie et al. ("Labrie") do not qualify as prior art.

2. 35 U.S.C. §112 Rejections

Claims 1-2, 4-6, and 12-14 are rejected under 35 U.S.C. §112, second paragraph as being indefinite.

Claims 12-14 have been amended to refer to a pharmaceutical composition containing a therapeutically effective amount of the claimed compound and a pharmaceutically acceptable carrier, as proposed. Claims 1-2 and 4-6 are canceled herein, without prejudice, and thus rejection of these claims is moot.

Reconsideration and withdrawal of the rejections is respectfully requested.

Claims 1-8, 10, and 12-14 are further rejected under 35 U.S.C. §112, first paragraph as not reasonably providing enablement for the broad scope of claims 1-8, 10, and 12-14. Claims 7-8 have been amended and are based on the Example compounds. Claims 12-14 are further amended herein as requested. Claims 1-6 and 10 are canceled herein, without prejudice, and thus rejection of these claims is moot.

Reconsideration and withdrawal of the rejections is respectfully requested.

3. 35 U.S.C. §102 Rejections

Vicent or Salvati

Claims 1-7 and 10 are rejected under 35 U.C.S. §102(b) over Vicent CA 89:102701 ("Vicent") or Salvati et al. CA 136:85823 ("Salvati"). The Office points to RN 67533-15-7 or 385440-85-7 when Y11 and Y21 are acyl and ring A is a phenyl compound. Applicants respectfully traverse.

Applicants respectfully submit that the compounds recited in amended claim 7 are not taught or suggested by Vicent or Salvati. In particular, contrary to the cited documents, R⁸ and R⁹ do not form an oxo group in accordance with Applicants' claim 7. Claims 1-6 and 10 are canceled herein, without prejudice, and thus rejection of these claims is moot. Reconsideration

and withdrawal of the rejections is respectfully requested.

Takaki

Claims 8, 10, and 12-14 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 6,211,225 to Takaki et al. ("Takaki"). The Office points to col. 25-28 table of examples wherein R1 is a halo compound and delineation of small genus with explicit exemplification of mono-halogen substitution. Applicants respectfully traverse.

The compounds of Takaki relied upon by the Office do not have a benzofuran ring or a benzothiophene ring in accordance with Applicants' amended claim 8. As such, claim 8 is patentable over Takaki. Claims 12-14 depend from claim 8 and, thus, also are patentable over Takaki. Claim 10 is canceled herein, without prejudice, and thus rejection of this claim is moot. Reconsideration and withdrawal of the rejections is respectfully requested.

Wang

Claims 1-7, 10, and 12-14 are rejected under 35 U.S.C. §102(e) over Wang et al. Org. Lett. ("Wang") (recited on 1449), see compounds at p. 899, #3-5. Applicants respectfully traverse.

As noted above, Wang does not qualify as prior art. In particular, Applicants' priority date is August 12, 2002, while Wang was published in 2003.

Applicants further note that, in any event, Applicants' compounds are not taught or suggested by Wang. Applicants provide that R⁷ is a C₁₋₆ alkyl group substituted with 1 to 5 halogen atoms, etc. As such, compounds 3-4 of Wang clearly do not teach or suggest Applicants' claimed compounds. Further, compound 5 of Wang is further excluded from Applicants' claim 7.

Reconsideration and withdrawal of the rejections is respectfully requested.

Schwink or Labrie

Claims 1-6, 10, and 12-14 are rejected under 35 U.S.C. §102(e) over U.S. Patent No. 7,223,788 to Schwink et al. ("Schwink") or U.S. Publication No. 2006/0287327 to Labrie et al. ("Labrie"). Applicants respectfully traverse.

As noted above, Schwink and Labrie do not qualify as prior art. In particular, Applicants' priority date is August 12, 2002, while Schwink's earliest possible priority date is July 18, 2003 and Labrie's earliest possible priority date is June 15, 2005.

Applicants further note that, in any event, claims 1-6 and 10 are canceled herein, without prejudice, and thus rejection of these claims is moot. Applicants further note that claims 7 and 8 are patentable over Schwink and Labrie and, thus, claims 12-14 which depend from

claims 7 and 8 are also are patentable over Schwink and Labrie.

Reconsideration and withdrawal of the rejections is respectfully requested.

4. Allowable Claims

The Office indicates that claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants respectfully submit that claim 9, as it stands, is in independent form. As such, claim 9 is believed to be allowable.

CONCLUSION

It is respectfully submitted that the subject application is in a condition for allowance.
Early and favorable action is requested. If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge Deposit Account No. 04-1105.

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Respectfully submitted,

By _____

Lisa Swiszc Hazzard

Registration No.: 44,368

EDWARDS ANGELL PALMER & DODGE LLP

P.O. Box 55874

Boston, Massachusetts 02205

(617) 517-5512

Attorneys/Agents For Applicant